

1 KEVIN V. RYAN (CASBN 118321)
2 United States Attorney

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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

MMC

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 KENNETH MELLERT,

14 Defendant.
15

CR 08

0043

VIOLATION: 15 U.S.C. §§ 78j and 78ff,
and 17 C.F.R. § 240.10b-5 – Securities
Fraud

SAN FRANCISCO VENUE

16 INFORMATION

17 The United States Attorney charges:

18 Background

19 At all times relevant to this Information:

20 1. The defendant KENNETH MELLERT was employed as regional sales manager by
21 PeopleSoft Inc., a Pleasanton, California-based provider of application software.

22 2. PeopleSoft was a publicly traded company quoted on the Nasdaq National Market, a
23 national securities market.

24 Relevant Securities Law Principles

25 3. The federal securities laws prohibit corporate “insiders” from buying or selling
26 company-related securities on the basis of material non-public information about the company.
27 Employees of a company are considered “insiders” under the federal securities laws.

1 COUNT ONE: (15 U.S.C. §§ 78j and 78ff, and 17 C.F.R. § 240.10b-5 – Securities Fraud; 18
2 U.S.C. § 2 – Aiding, Abetting, and Willfully Causing)

3 10. Paragraphs One through Nine of this Information are incorporated herein.

4 11. On or about April 1, 2002, in the Northern District of California and elsewhere, the
5 defendant

6 KENNETH MELLERT

7 did wilfully, directly and indirectly, by the use of the means and instrumentalities of interstate
8 commerce and of the facilities of a national securities exchange, use and employ manipulative
9 devices and contrivances in connection with the purchase and sale of securities, namely,
10 PeopleSoft put option contracts, in contravention of the rules and regulations prescribed by the
11 Securities and Exchange Commission, namely, 17 C.F.R. § 240.10b-5, by (a) employing a
12 device, scheme, and artifice to defraud, (b) omitting to state material facts necessary in order to
13 make statements made, in the light of all the circumstances under which they were made, not
14 misleading, and (c) engaging in acts, practices, and courses of dealing which would and did
15 operate as a fraud and deceit.

16 12. Specifically, on the basis of material, non-public information regarding PeopleSoft's
17 intention to announce disappointing financial results for the first fiscal quarter of 2002, the
18 defendant willfully caused another person to purchase PeopleSoft option contracts on defendant's
19 behalf and, in doing so, breached his duty of confidentiality, trust, and loyalty to PeopleSoft.

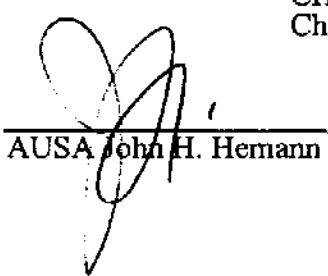
20 All in violation of Title 15, United States Code, Sections 78j and 78ff, Title 17, Code of
21 Federal Regulations, Section 240.10b-5, and Title 18, United States Code, Section 2.

22
23 DATED: 1/12/

KEVIN V. RYAN
United States Attorney



CHARLES B. BURCH
Chief, Criminal Division

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27 (Approved as to form: )

AUSA John H. Hermann